

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-244—sSB 900

Government Administration and Elections Committee

AN ACT CONCERNING REVISIONS TO THE STATE CODES OF ETHICS

SUMMARY: This act makes several changes to the state codes of ethics for public officials and lobbyists. It expands the codes' exemption for gifts to the state to include goods or services that support participation by a public official or a state employee at an event and further a state or quasi-public agency function.

With respect to the Citizen's Ethics Advisory Board (CEAB), the act (1) expands the board's administration and enforcement of the code, (2) reconfigures board members' terms of office, and (3) allows people who sought or held positions as justices of the peace and notaries public to serve on the board.

The act also requires that a public official or state employee act with specific intent before he or she may be found to violate the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. It expands the grounds for contractor disqualification by the State Contracting Standards Board (SCSB) and makes contractors, consultants, and certain other people liable for damages if they violate the law on unethical bidding or contracting practices to advance their own financial interests.

Lastly, the act (1) revises certain financial and Office of State Ethics (OSE) reporting requirements, (2) exempts OSE attorneys from paying various court fees when acting in their official capacity, and (3) makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013, except that provisions relating to CEAB member terms, counseling or sanctioning a violation of the code, and certain technical changes are effective upon passage.

§§ 1, 14 — GIFTS TO THE STATE

The act expands the state codes of ethics' exemption for gifts to state or quasi-public agencies to include goods or services that support participation by a public official or state employee at an event and facilitate a state or quasi-public agency's action or function. Existing law allows a state or quasi-public agency to accept goods or services (1) for use on agency property or that support an event and (2) that facilitate agency actions or functions. By law, lobbyists and people seeking to do or doing business with the state generally cannot give gifts to public officials and state employees.

CITIZEN'S ETHICS ADVISORY BOARD

§§ 2, 3 — *Terms and Composition*

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By law, the board and OSE staff are responsible for enforcing the codes, including advising those subject to it. The act staggers the nine board members' terms of office in a way that prevents more than three terms from expiring in a single year.

By law, each board member is appointed to one four-year term. Under prior law, once every four years, four members' terms expired. Under the act, two members appointed to terms that began on October 1, 2009 will each serve one five-year term, and subsequent appointments to those positions are for four years. The result of this reconfiguring is that, in any four-year period, the board will have three years with two vacancies to fill and one year with three vacancies to fill (see Table 1).

Table 1: CEAB Member Term Expiration Dates

<i>Term Expiration Date</i>	<i>Number of Terms Expiring</i>	
	<i>Prior Law</i>	<i>The Act</i>
September 30, 2013	4	2
September 30, 2014	0	2
September 30, 2015	3	3
September 30, 2016	2	2

The act allows people who sought or held positions as justices of the peace or notaries public to serve on the board. By law, board members and OSE employees may not (1) hold or campaign for public office, (2) have held or campaigned for public office in the three years prior to appointment, (3) hold office in a political party or committee, or (4) be a registered lobbyist or member of a lobbying organization.

§§ 6, 16 — CEAB Authority

The act authorizes CEAB to administer and enforce all parts of the code by giving it explicit authority to issue advisory opinions on miscellaneous lobbyist provisions (Part III of the code) and ethical considerations concerning bidding and state contracts (Part IV of the code).

§ 11 — ETHICS CODE VIOLATIONS

Specific Intent Required

The act requires an intentional act before a public official or state employee may be found in violation of the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. By law, people who intentionally violate the code are guilty of a class A misdemeanor for a first violation (or a class D felony if the violator derived a financial benefit of at least \$1,000 from the violation) and a class D felony for subsequent violations (see TABLE ON PENALTIES).

STATE CONTRACTORS AND CONSULTANTS

§ 13 — Penalties for Violations

The act makes state contractors and potential state contractors liable to the state for damages if they:

1. solicit undisclosed information for their competitive advantage;
2. intentionally or recklessly charge the state or a quasi-public agency for unperformed work or undelivered goods;
3. intentionally violate or try to circumvent competitive bidding or ethics laws;
4. provide, or get others to provide, information on the donation of goods or services with the intent to unduly influence the award of a state contract; or
5. when serving as a consultant on a contract, act as a consultant for anyone bidding on that contract.

The act subjects state consultants and independent contractors to the same penalty if they benefit financially from (1) abusing their contractual authority or using confidential information acquired in performing the contract, (2) accepting another state contract that impairs their judgment on the first contract, or (3) accepting anything of value on the understanding that a person acting on the state's behalf would be influenced. Lastly, it subjects to the same penalty anyone who gives anything of value to a state consultant or independent contractor with the understanding that the consultant or contractor, acting on behalf of the state, would be influenced.

Under the act, damages equal the amount of the financial advantage. The penalty applies to anyone who commits the violation or knowingly receives a financial gain from it. Additionally, OSE must immediately inform the attorney general of the violation.

§ 24 — Contractor Disqualification

The act authorizes SCSB to disqualify a contractor who is deemed a nonresponsible bidder (a contractor or potential contractor who willfully or egregiously commits acts (1) through (5) listed under § 13 above) under the Code of Ethics. By law, SCSB can disqualify a contractor, for various reasons, from bidding on, applying for, or participating as a contractor or subcontractor on a state contract for up to five years.

OTHER PROVISIONS

§§ 6, 8, 25 — Reporting Requirements

The act (1) requires OSE to submit its annual activity report to the governor two months earlier, by February 15 rather than April 15 each year; (2) allows public officials and employees who must file a statement of financial interests to do so on the first business day after May 1 if May 1 falls on a weekend or legal holiday; and (3) requires the Public Utilities Regulatory Authority directors to annually file a statement of financial interests with OSE, by May 1, instead of a financial disclosure statement with the secretary of the state by July 30.

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